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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,755	02/12/2001	David W. Cox JR.	40091-10018	8425

7590 06/14/2004

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EXAMINER	
ST CYR, DANIEL	

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/781,755	COX, DAVID W.	
	Examiner	Art Unit	
	Daniel St.Cyr	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 March 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Receipt is acknowledged of the amendment filed 3/22/04.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-3, 5, 6, and 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausrus, DE Patent No. 2844242, in view of McGaha, US Patent No. 5,278,396.

Ausrus discloses monitoring system protecting goods against shoplifting comprising: a label attached to a retail item, said label lacking a post-purchase machine-readable indicia; a point of sale encoding device (cancellation device) provided a post purchase indicia to the label during purchase by the customer; and a detecting device (monitoring device)for analyzing the label to determine whether the post-purchase machine-readable indicia is present (see the abstract); 3, the post-purchase machine-readable indicia is machine-readable only and invisible (electronic circuit is used); the encoding device provides the machine-readable post-purchase indicia electrically (electric circuit) via a changeover frequency; and the label is either paper or plastic (see figure 4).

Ausrus fails to disclose or fairly suggests a return station at a different location from the point of sale having a detecting device for detecting the post indicia.

McGaha discloses a printer slip table with integral scanner comprising: a garment or other merchandise item 53 having a tag 54 containing bar code 56 is passed under scanning

window 44; a sensing circuit 18 activates scan module 16 to scan bar code 56; purchase information, such as date, time, and store location, are printed directly onto receipt 50 in alphanumeric symbols or encoded by known methods and then printed as bar code label 62. If an item is returned, receipt 50 may be easily scanned to validate the return or refund. Advantageously, printer slip table 10 increases a seller's control over returns and refunds (see figure 3 and col. 3, lines 32+).

In view of the teachings of McGaha, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the system of Ausrus to process returned items. Such modification would enhance the system capability by providing means (such as a bar code containing purchased information onto the label) to better control inventory (i.e. over returned and refunds). With regard to having a returned station different from the point of sale, notice is taken that it is common practice in the art to have a station (such as customer service station) different from the point of sale to deals with returned items. Regarding to erasing the invisible code or removing the label from the returned items, once the returned items are verified to be in condition for re-circulation, erasing the code would have been obvious so that the item could be properly processed and made available for sale. Therefore, it would have been an obvious extension as taught by Aurus.

4. Claims 4, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausrus as modified by McGaha, as applied to the claims above, and further in view of Johnsen et al, US Patent No. 5,109,153. The teachings of Ausrus as modified by McGaha have been discussed above.

Ausrus as modified by McGaha fails to disclose or fairly suggests that the post-purchase

indicia is visible under infrared light or ultraviolet radiation and that the label is a bar code label having a plurality of layers.

Johnsen et al disclose a flash imaging and voidable articles comprising: a bar code label 13 having a bar code 14, the label has a plurality of layers containing a mixture of dry silver and transparency bases material, and the label contains information that becomes visible when exposed to infrared light.

In view of Johnsen's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the system of Ausrus as modified by McGaha so that the bar code is invisible to provide additional security. Such modification would provide greater security by preventing individual from tampering with the code posted on the label. Therefore, it would have been obvious extension as taught by Ausrus as modified by McGaha.

Response to Arguments

5. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

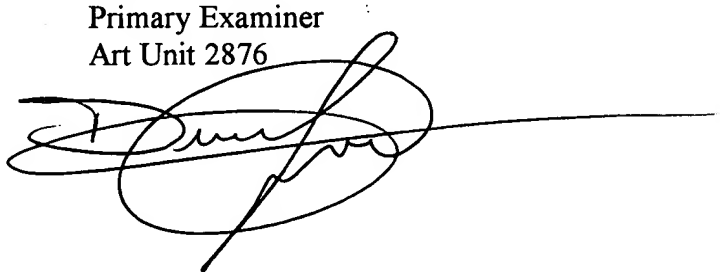
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel St.Cyr
Primary Examiner
Art Unit 2876



DS
June 7, 2004